

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Sharel L. Giroux,
Plaintiff

v.

Case No. 11-cv-294-SM

Federal National Mortgage
Association and BAC Home
Loans Servicing LP,
Defendants

ORDER

Re: Document No. 4, Amended Motion for Temporary Restraining Order

Ruling: The amended verified motion for temporary restraining order to enjoin foreclosure is denied. Having heard the parties via telephone conference, and having considered the proffers by counsel, and reviewed the pleadings and exhibits, the court finds that plaintiff has failed to show a likelihood of success on the merits, and, indeed, it is unlikely plaintiff will succeed on the merits. The documents facially disclose that FNMA is both holder of the note and assignor of the mortgage, which includes a power of sale, and that the note is in default. There appears to be no argument that the statutory notice requirements have not been met (RSA 479:25). No evidence has been presented tending to undermine defendant's claim of right in the note and mortgage, and the record does contain evidence supporting defendant's rights in the note and entitlement to exercise the power of sale.


Steven J. McAuliffe
Chief Judge

Date: June 21, 2011

cc: Michael J. DiCola, Esq.
Edward Philpot, Esq.